

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

ADT, LLC d/b/a ADT SECURITY SERVICES

and

Case 03-CA-250706

**INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL UNION 43**

DECISION AND ORDER

Statement of the Case

On December 19, 2019, ADT, LLC d/b/a ADT Security Services (the Respondent), International Brotherhood of Electrical Workers, Local Union 43 (the Union), and the General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, subject to Board approval, providing for the entry of a consent order by the Board and a consent judgment by any appropriate United States Court of Appeals. The parties waived all further and other proceedings before the Board to which they may be entitled under the National Labor Relations Act and the Board's Rules and Regulations, and the Respondent waived its right to contest the entry of a consent judgment or to receive further notice of the application therefor.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Formal Settlement Stipulation is approved and made a part of the record, and the proceeding is transferred to and continued before the Board in Washington, D.C., for the entry of a Decision and Order pursuant to the provisions of the Formal Settlement Stipulation.

Based on the Formal Settlement Stipulation and the entire record, the Board makes the following

Findings of Fact

1. The Respondent's business

(a) ADT, LLC d/b/a ADT Security Services (the Respondent) is a Delaware corporation with an office and place of business located in Orem, Utah (the Respondent's facility) and is engaged in the installation and service of residential and commercial security systems.

(b) Annually, in conducting its business operations as described above, the Respondent derives gross revenues in excess of \$500,000 and purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of Delaware.

(c) The Respondent is now, and has been at all material times, an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

2. The labor organization involved

At all material times, International Brotherhood of Electrical Workers, Local Union 43 (Union) has been a labor organization within the meaning of Section 2(5) of the Act.

3. The appropriate unit

(a) The following employees of the Respondent (the unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time employees originally described in the certification dated November 20, 1968 (Case Number 3-RC-4533) classified by the Respondent as residential and small business installers, residential and small business high volume commissioned installers, residential and small business service technicians, employed by the Respondent at its facility in Albany, NY; but excluding all alarm service investigators, relief supervisors, all office clerical employees and professional employees, guards and supervisors, as defined in the Act; and excluding all commercial installers and commercial service unless the employees are employed by the Respondent and are located at, or are directly supervised by the Respondent's supervisors located at its Albany, NY facility.

(b) At all material times, the Respondent has recognized the Union as the exclusive collective-bargaining representative of the unit. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which is effective from June 11, 2018 to June 10, 2021.

(c) At all material times, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the unit.

ORDER

Based on the above findings of fact, the Formal Settlement Stipulation, and the entire record, and pursuant to Section 10(c) of the National Labor Relations Act, the National Labor Relations Board orders that:

The Respondent, ADT, LLC, d/b/a ADT Security Services, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Reducing employee wages without the Union's request in contravention of the Mandate and Order of the United States Court of Appeals for the Second Circuit in *National*

Labor Relations Board v. ADT LLC, d/b/a ADT Security Services, No. 19-2534 (2d Cir. Oct. 2, 2019).

(b) Reducing employee wages without bargaining with the Union.

(c) In any like or related manner restraining or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Recognize and bargain in good faith with International Brotherhood of Electrical Workers, Local Union 43 (Union) as the exclusive collective-bargaining representative of the unit employees.

(b) Abide by the terms of the Mandate and Order of the United States Court of Appeals for the Second Circuit in *National Labor Relations Board v. ADT LLC, d/b/a ADT Security Services*, No. 19-2534 (2d Cir. Oct. 2, 2019).

(c) Rescind the unlawful wage reductions which the Respondent made without the Union's request and restore employees' wages to the rates in effect prior to the wage reduction.

(d) Before implementing any future changes in wages, hours, or other terms and conditions of employment affecting employees, notify and, on request, bargain collectively and in good faith with the Union as the exclusive representative of the employees in the unit except as permitted by the collective-bargaining agreement.

(e) Make the following employees whole with interest for loss of pay and benefits suffered by reason of the Respondent's decision to rescind wage increases granted after November 2, 2018, by payment to them of the amounts set forth opposite their respective names:

	<u>Backpay</u>	<u>Interest¹</u>	<u>Total</u>
John Brady	\$60.56	\$.50	\$61.06
David Hardy	\$386.27	\$3.20	\$389.47
Daniel Yetto	\$2,810.79	\$23.30	<u>\$2,834.09</u>
			\$3,284.62

(f) Make employees whole with interest for amounts equal to the difference in taxes owed upon receipt of a lump-sum payment and taxes that would have been owed had there been no discrimination.

¹ The interest calculations assume that the Respondent makes payment of the sums set forth here by December 31, 2019. If payment is made after that date, additional interest may apply.

(g) Submit the appropriate documentation to the Social Security Administration so that when backpay is paid, it will be allocated to the appropriate periods.

(h) Preserve and, within 14 days of a request or such additional time as the Regional Director may allow for good cause shown, provide paper and native, electronic sortable electronic records of all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to show wages paid and hours worked for unit employees and to analyze the amount of backpay due to them under the terms of this Stipulation.

(i) Submit the W2 reflecting backpay paid to the discriminatees to the Regional Director.

(j) Within 14 days after service by the Region, the Respondent shall duplicate and mail, at its own expense, a copy of the attached notice to all current and former employees employed by the Respondent at any time since October 9, 2018.

(k) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C., April 13, 2021.

Lauren McFerran, Chairman

Marvin E. Kaplan, Member

John F. Ring, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

APPENDIX A

NOTICE TO EMPLOYEES POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER AND A CONSENT JUDGMENT OF ANY APPROPRIATE UNITED STATES COURT OF APPEALS

FEDERAL LAW GIVES YOU THE RIGHT TO:

Form, join, or assist a union;
Choose a representative to bargain with us on your behalf;
Act together with other employees for your benefit and protection;
Choose not to engage in any of these protected activities.

WE WILL NOT do anything to prevent you from exercising the above rights.

International Brotherhood of Electrical Workers, Local Union 43 (Union) is the employees' representative in dealing with us regarding wages, hours, and other working conditions of the employees in the following appropriate unit (unit):

All full-time and regular part-time employees originally described in the certification dated November 20, 1968 (Case Number 3-RC-4533) classified by the Respondent as residential and small business installers, residential and small business high volume commissioned installers, residential and small business service technicians, employed by the Respondent at its facility in Albany, NY; but excluding all alarm service investigators, relief supervisors, all office clerical employees and professional employees, guards and supervisors, as defined in the Act; and excluding all commercial installers and commercial service unless the employees are employed by the Respondent and are located at, or are directly supervised by the Respondent's supervisors located at its Albany, NY facility.

WE WILL NOT reduce employee wages without the Union's request in contravention of the Mandate and Order of the United States Court of Appeals for the Second Circuit in *National Labor Relations Board v. ADT LLC, d/b/a ADT Security Services*, No. 19-2534 (2d Cir. Oct. 2, 2019).

WE WILL NOT reduce employee wages without providing notice and an opportunity to bargain to the Union.

WE WILL NOT in any like or related manner interfere with your rights under Section 7 of the Act.

WE WILL recognize and, on request, bargain at reasonable times and places and in good faith with the Union as the exclusive collective-bargaining representative of the unit.

WE WILL rescind the unlawful wage reductions which the Respondent made without the Union's request and restore employees' wages to the rates in effect prior to the wage reduction.

WE WILL make the following employees – John Brady, David Hardy, and Daniel Yetto – whole with interest for loss of pay and benefits suffered by reason of the Respondent's decision to rescind wage increases granted after November 2, 2018.

WE WILL make employees whole with interest for amounts equal to the difference in taxes owed upon receipt of the lump-sum payment and taxes that would have been owed had there been no discrimination.

Before implementing any future changes in wages, hours, or other terms and conditions of employment affecting members of the unit, **WE WILL** notify and, on request, bargain collectively and in good faith with the Union as the exclusive representative of the employees in the unit except as such changes are permitted by the collective-bargaining agreement.

ADT, LLC d/b/a ADT SECURITY SERVICES

The Board's decision can be found at www.nlr.gov/case/03-CA-250706 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

